



Paper No. 7

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**OFFICE OF PETITIONS**

In re Application of  
Probst  
Application No. 09/811,059  
Filed: March 15, 2001  
Attorney Docket No. ZIP 2216

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: DECISION GRANTING  
: PETITION  
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This is a decision on the petition filed on September 24, 2001, requesting that the above-identified application be accorded a filing date of March 15, 2001, rather than the presently accorded filing date of July 16, 2001.

The petition is **GRANTED**.

The application deposited on March 15, 2001 was in German. On May 7, 2001, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), stating that the application had been accorded a filing date of March 15, 2001, that the oath or declaration was missing, and that an English translation of the application, a statement that the translation is accurate, and a \$130 fee for processing the German language application were required under 37 CFR 1.52(d).

On July 16, 2001, Applicant filed an English translation of the original German language application, a statement that the translation is accurate, a Preliminary Amendment, a Declaration and Power of Attorney, and a request for a 1-month extension of time for filing these documents. A Filing Receipt was mailed by OIPE on September 13, 2001 indicating a filing date of July 16, 2001. In response, the present petition was filed.

Under 37 CFR 1.52(b), the specification of an application, including the claims and drawings, and the oath or declaration must be in the English language or be accompanied by a translation of the application together with a statement that the translation is accurate. However, 37 CFR 1.52(d) permits the applicant of a non-English language application to file an English translation and the accompanying statement within the time period set forth in an Office notice such as the May 7, 2001 Notice, if they were not filed with the original non-English language application. An application, once meeting the requirements of 35 U.S.C. 111(a),<sup>1</sup> **will be accorded a filing date even though some or all of the application papers, including the written description and the claims, is in a language other than English, and hence does not comply with 37 CFR 1.52.<sup>2</sup>**

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<sup>1</sup> I.e., containing a specification including at least one claim, and necessary drawings; see 35 U.S.C. 111(a), 112; 37 CFR 1.53(b).

<sup>2</sup> See MPEP section 608.01 (Aug. 2001), Filing of Non-English Language Applications.

The July 16, 2001 English translation was accompanied by a statement that it is an accurate translation of the March 15, 2001 German language application. This translation of the original application includes a specification as prescribed by 35 U.S.C. 112,<sup>3</sup> and necessary drawings as prescribed by 35 U.S.C. 113.<sup>4</sup> Therefore, the German language application filed on March 15, 2001 met the filing date requirements and is entitled to the requested filing date. The petition is thus granted. No petition fee is owed.

The Office also acknowledges receipt on July 20, 2001 (Certificate of Mailing date July 11, 2001) of a certified priority document claiming priority of the application filed in Germany on March 15, 2000.

The application is being returned to OIPE for further processing with a filing date of March 15, 2001, using the papers filed on that date and supplemented with the English translation and the Preliminary Amendment on July 16, 2001. Thereafter, the application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed to Petitions Attorney RC Tang at (703) 308-0763.



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<sup>3</sup> I.e., containing an enabling description of the invention (pages 1-4), the best mode (page 2, lines 11-13), and at least 1 claim (14 claims are included).

<sup>4</sup> The previously filed drawings were labeled in English.